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FM AMEMBASSY KHARTOUM
TO RUEHC/SECSTATE WASHDC IMMEDIATE 4039
INFO RUCNIAD/IGAD COLLECTIVE
RUEHGG/UN SECURITY COUNCIL COLLECTIVE
RHMFISS/CJTF HOA

UNCLAS SECTION 01 OF 02 KHARTOUM 000807

DEPT FOR SE GRATION, S/USSES, AF A/S CARSON, AF/E, DRL
NSC FOR MGAVIN
DEPT PLS PASS USAID FOR AFR/SUDAN
ADDIS ABABA ALSO FOR USAU

SENSITIVE
SIPDIS

E.O. 12958: N/A

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SUBJECT: NCP AND SPLM NEGOTIATE REFORM LEGISLATION; CONSENSUS ON A

REFERENDUM LAW WILL REQUIRE A U.S. PUSH

REFS: A. Khartoum 794

[1](#)B. Khartoum 240

[1](#)C. Khartoum 060

[1](#)1. (SBU) Summary. National Congress Party (NCP) parliamentarian and political heavyweight Ibrahim Ghandour and Government of National Unity (GNU) State Minister of Justice Wek Mamer Kuol (of the Sudan People's Liberation Movement) told poloffs that while the National Constitutional Review Commission (NCRC) is brokering negotiations of the Southern Sudan Referendum Law, the two parties still will have to work out some of the sticking points bilaterally. While determining voter eligibility and the make-up of the Referendum Commission remain in dispute, new issues of disagreement have arisen, such as what percentage of the vote will be required to determine secession versus unity, and whether there will be one or two ballot boxes at each polling site. There is still not full consensus on the Trade Union Act, which the two parties continue to debate. Although the parties have not agreed on the content of the National Security Law, it has been moved forward to the GNU Council of Ministers. End Summary.

DISAGREEMENTS ON THE REFERENDUM BILL CONTINUE

2. (SBU) On June 29, poloffs met separately with influential NCP parliamentarian and Sudan Workers Trade Union Federation President Ibrahim Ghandour and GNU State Minister of Justice Wek Mamer Kuol of the SPLM to discuss pending national legislation, in particular the Southern Sudan Referendum Law. The parties have battled over the draft law behind closed doors for months and, making little progress, agreed to allow the NCRC to facilitate negotiation on the crucial bill (ref A).

[1](#)3. (SBU) Ghandour, who is part of the NCP's inner circle, is the lead NCP negotiator on the Referendum bill. He told poloffs that the NCRC is making progress with the parties to reach consensus on the law, and stated that there are "not big differences" remaining between the NCP and SPLM on key points. The plan, according to Ghandour, is for a team of 15 individuals from various parties (including the SPLM and the NCP,) facilitated by the NCRC, to discuss the bill in its entirety and reach a consensus on the majority of it (ref A). Ghandour said that the main sticking points, such as voter eligibility, the composition of the Referendum Commission, and powers given to the Referendum Commission Juba Office, will be discussed by two principal representatives from the SPLM and the NCP separately and agreed-upon accordingly. The NCP rep also said that his party no longer insists that adoption of the Referendum Law be directly linked to the determination of post-referendum arrangements between the North and the South (nor that they be included in the Referendum Law). He did say, however, that post-Referendum arrangements will have to be decided before the Referendum takes place and noted that there is already an NCP-SPLM

team at work on this.

14. (SBU) Ghandour identified two new sticking points between the SPLM and the NCP on the Referendum law. The SPLM argues that a Referendum decision for the South to secede be made by a simple majority vote, while the NCP prefers that it require a vote of 75 percent or more. Poloff questioned Ghandour as to why not a position of two-thirds (instead of 75 percent); "you have to start at a position that allows for eventual compromise," he laughed, suggesting that the two parties will find common ground somewhere in the middle.

15. (SBU) Ghandour also said that the NCP's desires that there be one ballot box in each polling station and one ballot upon which a voter makes his/her choice for separation or unity. The SPLM, on the other hand, wants there be two ballot boxes in each polling station, one that is clearly marked "unity" and another "separation." Ghandour balked at the idea of two ballot boxes saying that no voter will be able to cast his vote in secret in such a situation, which he said was unfortunately demonstrated in the election of former President Nimeiry in the early '80s.

16. (SBU) In a separate meeting with poloffs, State Minister of Justice Wek (SPLM) defended the SPLM's positions on the Referendum Law. He was adamant that unity or secession be decided by a simple majority. He explained that it is critical that there be two distinct ballot boxes in the Referendum vote, with signs and symbols on each box clearly indicating "separation" or "unity." Given the high rate of illiteracy in the South, voters must be absolutely clear about their choice, he explained. Furthermore, Minister Wek suggested that the SPLM is wary of one ballot box in each polling station because of the ability to manipulate the results within the box - something which the SPLM expects the NCP to try to do.

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17. (SBU) The State Minister also raised some troubling requests by the NCP. According to Wek, the NCP has asked that members of the Sudan Armed Forces (SAF), Salah Ghosh's intelligence forces (NISS), and the National Police Force move south to keep the peace during the Referendum. Wek noted that this would violate the Interim National Constitution and the CPA, and would surely be a "dangerous" thing for the Government of Southern Sudan and its people. "They [the NCP] are looking for a way to manipulate the whole process," said Wek.

PROGRESS ON OTHER NATIONAL LEGISLATION

18. (SBU) The SPLM and the NCP still disagree on reform of the Trade Union Law. According to Ghandour, they have agreed to 21 out of 23 points on reformed law, but disagree on the right to create of multiple unions in one state or industry (refs B and C). The NCP would like the unions to remain as they are, stream-lined to one per state, one per industry and all organized under the umbrella of the Trade Union Federation (which Ghandour heads). The SPLM, on the other hand, prefers workers to be able to freely create unions that are not so tightly controlled or centralized.

19. (SBU) Poloffs asked Minister Wek for his thoughts on the final, reformed version of the media/press law, which was agreed upon by the parties and ratified in Parliament in early June. Although it is an improvement over the prior law, it was also "a compromise," he sighed. [Note: international media watchdog groups have criticized the reformed law as retaining oppressive measures on the freedom of the press/media. End note.] On the National Security Law, Wek said that the SPLM and the NCP could not reach a compromise on the powers of the intelligence service (particularly of arrest, seizure of assets, and searches) and "agreed to disagree," by submitting the current draft, which allows NISS many of its current powers, to the Council of Ministers for approval (ref A).

NCP ON USG ROLE IN SUDAN

10. (SBU) Ghandour told poloffs that NCP Presidential Advisor Ghazi Salah Eddin briefed him on June 28 on the CPA Conference in Washington, DC and the U.S.-facilitated trilaterals. He said that

Salah Eddin was "very happy" with the visit, and reported that the NCP feels that there is room to make progress on U.S.-Sudan bilateral relations. Ghandour recommended to poloffs that for the U.S. to play a full mediation role on Darfur and North-South issues, it continue to work towards the normalization of U.S.-Sudan relations "step by step." Concerning Darfur, he said that the U.S. should push for a normalization of Sudan-Chad relations, a unification of the political position of the Darfur rebels, and a respected cease-fire.

¶11. (SBU) In dealing with the SPLM, Ghandour recommended that the U.S. put its full support behind SPLM Chairman and GoSS President Salva Kiir Mayardit. Ghandour stated that it is critically important for the U.S. to work directly with Kiir in order to bolster his confidence. Kiir has "failed to manage" a powerful group of SPLM members, including Secretary General Pagan Amum, Deputy Secretary Yasir Arman, and others, who routinely reach out to the U.S. for support, Ghandour argued. For the U.S. to deal effectively with the SPLM, said Ghandour, it must work primarily with Kiir.

Comment

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¶12. (SBU) Reaching consensus on reformed national legislation and a Southern Sudan Referendum Bill continues to be a difficult task for the NCP and the SPLM. Time is running out for Parliament to ratify critical legislation (its next session is October-December 2009) before it is dissolved and elections take place. The U.S. should continue to encourage the parties to reach consensus on legislation that allows credible elections and a well-prepared, free and fair Southern Sudan Referendum to occur. Without a concerted push, the NCP will continue to drag its feet and the SPLM will begin to sacrifice on truly reformed national level legislation so long as it can get its Referendum Law.

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